

Assembly Bill No. 1620

Passed the Assembly August 26, 1999

Chief Clerk of the Assembly

Passed the Senate August 23, 1999

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 1999, at _____ o'clock ____M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Section 101087 to the Health and Safety Code, relating to environmental protection.

LEGISLATIVE COUNSEL'S DIGEST

AB 1620, Torlakson. Hazardous materials: release.

Existing law authorizes a local health officer to take prescribed actions to obtain information after the declaration of a health emergency or county health emergency relating to a release, spill, or escape of hazardous waste.

This bill would authorize the board of supervisors to delegate to the county health officer or administering agency the responsibility to examine a person subpoenaed, as specified, regarding the cause of a release or threatened release of a hazardous material from the premises of a handler, as those terms are defined.

The bill would require the county health officer or administering agency that is delegated that responsibility to report to the board of supervisors regarding what actions should be taken to prevent a similar incident from occurring again. The bill would allow a handler subject to a subpoena to submit to the health officer or administering agency specified information and the health officer or administering agency would be required to consider, and respond to, this information in preparing the report.

The people of the State of California do enact as follows:

SECTION 1. Section 101087 is added to the Health and Safety Code, to read:

101087. (a) For purposes of this section, the terms “handler,” “administering agency,” “hazardous material,” “release,” and “threatened release” shall have the meaning given in Section 25501.

(b) After a release or a threatened release of a hazardous material from the premises of a handler, which



release or threatened release poses a significant present or potential hazard to human health and safety, property, or the environment, the board of supervisors may delegate to the county health officer or administering agency, the responsibility to examine any individual who has been properly subpoenaed by the chairperson of the board of supervisors for the purpose of obtaining information as to the cause of the incident, and to report to the board of supervisors what actions the board of supervisors should take to prevent a similar incident from occurring again. The county health officer or administering agency shall consider in the report any information obtained pursuant to subdivision (g) and respond to that information in the report. The county health officer or administering agency may examine the subpoenaed individual in private, except that the individual may choose to be interviewed in the presence of personal legal counsel.

(c) Prior to issuing a subpoena for purposes of subdivision (b), the board of supervisors shall make a written finding that the county health officer or administering agency has made a reasonable attempt to conduct a voluntary examination, and that the attempt was not successful.

(d) If the board of supervisors delegates the responsibility to examine any subpoenaed individual to the county health officer pursuant to subdivision (b) and the county health officer is not the administering agency within the jurisdiction where the hazardous material release or threatened release occurred, the county health officer shall actively involve the administering agency in all phases of the examination, the investigation to determine the cause of the hazardous material release or threatened release, and the preparation of the report to the board of supervisors concerning what actions the board of supervisors should take to prevent a similar incident from occurring.

(e) (1) If a handler subject to a subpoena believes that information provided to the county health officer or administering agency during, or in connection with, an



examination conducted pursuant to this section involves the release of a trade secret, the handler shall notify the county health officer or administering agency in the manner specified in subdivision (a) of Section 25538. Upon receipt of that notification, the county health officer or administering agency shall handle that information in the same manner as specified in Section 25538 with regard to the review and disclosure of that information by an administering agency.

(2) For purposes of this subdivision, “trade secret” has the same meaning as defined in subdivision (a) of Section 25538.

(f) When the county health officer or administering agency is preparing a report for the board of supervisors pursuant to subdivision (b), the handler subject to the subpoena may submit to the health officer or administering agency any information and analysis gathered or prepared by the handler regarding the cause of the release or threatened release and any appropriate action for the prevention of a similar incident. The health officer or administering agency shall consider any information and analyses submitted by the handler pursuant to this subdivision in preparing the report to the board of supervisors and shall respond to that information in the report.

(g) Nothing in this section shall be construed to either limit or expand the existing subpoena authority of a county board of supervisors pursuant to Section 25170 of the Government Code.



Approved _____, 1999

Governor

